

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BILLY D. FOWLER,

Petitioner,

v.

MAGGIE MILLER-STOUT,

Respondent.

Case No. C07-5356 RJB/KLS

ORDER ADOPTING REPORT AND
RECOMMENDATION

The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen L. Strombom, objections to the Report and Recommendation, and the remaining record, does hereby find and **ORDER**:

- (1) The Court adopts the Report and Recommendation (Dkt. 21);
- (2) Petitioner objects to the Report and Recommendation, contending that because requested a Certificate of Appealability in the 9th Circuit, he is entitled to relief pursuant to Federal Rule of Appellate Procedure 23. Dkt. 22. As discussed in the Report and Recommendation, a transfer from one institution to another within the same district does not divest this Court of jurisdiction over Petitioner's claim, and does not violate FRAP 23;
- (3) Petitioner's motion for preliminary injunction and temporary restraining order (Dkt. 15) is **DENIED**; and
- (4) The Clerk is directed to send copies of this Order to Plaintiff, counsel for Defendants and to the Hon. Karen L. Strombom.

DATED this 3rd day of January, 2008.


ROBERT J. BRYAN
United States District Judge